IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4652 of 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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TECHNOPLAST - Petitioner(s)
Versus
JI PARMAR - Respondent(s)

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Appearance :
NOTICE NOT RECD BACK for Petitioner.
RULE NOT RECD BACK for Respondent.

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 08/12/2005

ORAL JUDGMENT

1.The petitioner has filed this petition under Article 227 of the Constitution of India praying for quashing and setting aside the order dated 29.05.1991 passed below an application Exh. 8 in Reference (LCN) No. 109/85 pending before the Presiding Officer, Labour Court, Nadiad.

2.The petition was admitted and rule was issued on 17.07.1991 and ad-interim stay was granted in terms of para 14 (B) of the petition. The Court has also directed that this petition should be heard along with Special Civil Application No. 4629 of 1991.

3.On 14.06.2005, this Court has passed further order observing that since the advocate for the petitioner has become Senior advocate, fresh notice be issued to the petitioner as well as to the respondent making it returnable on 26.07.2005. The Court has also directed the

office to place this matter along with Special Civil Application No. 4629 of 1991.

4. This Court has passed further order on 15.11.2005 observing that notice issued to the petitioner as well as respondent have not been received back. Earlier the respondent was served through affixation. It appeared to the Court that the petitioner as well as respondent both have lost interest in the matter and nobody was keen to pursue this matter. The Court, however, in the interest of justice granted one more opportunity to the petitioner and directed the office to issue fresh notice to the petitioner and bailiff was permitted to affix the notice on the address given in the petition. The matter is thereafter kept for hearing today.

5. While going through the papers of Special Civil Application No. 4629 of 1991, it is found that the said Special Civil Application was disposed of by the Division Bench of this Court on 03.01.1991. The said order was passed by consent of the parties. The Court has

observed that it will be open to the respondent to make appropriate application for interim relief before the Labour Court on the basis of the Supreme Court decision which was sought to be relied upon by the learned advocate for the respondent before the Division Bench in support of his Civil Application No. 1476 of 1991. The Court further observed that as and when such interim relief application is made, the Labour Court will decide the same at the earliest after hearing both the sides. Rule was made absolute to the above extent.

6. Here in the present case also, interim order was passed by the Labour Court below an application Exh. 8 and since the parties are not present before the Court, the order cannot be passed on consensus basis. Even otherwise, reference which is pending before the Labour Court is of 1985. More than 20 years have gone. There is all possibility that by efflux of time, the reference has become infructuous and may not survive. As the Division Bench has passed the order on consensus basis, this Court is also of the view that if in the reference is still

pending before the Labour Court, an appropriate application can be made for leading of evidence and the said reference may be decided as expeditiously as possible without being influenced by the order of this Court.

7. This petition is accordingly disposed of. Rule is made absolute to the above extent without any order as to costs.

[K.A. PUJ, J.]

S*avariya*